

This instrument Prepared By:  
Record & Return to:  
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**FOR**  
**INDIAN RIVER LANDINGS**

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**RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR**

**INDIAN RIVER LANDINGS**

**THIS RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** made and entered into by RIVER EDGE DEVELOPMENT LLC, a Florida limited liability company, hereinafter referred to as "Developer", completely restates and replaces in its entirety CFN 2017094607 recorded 05/05/2017 in O.R. Book 7883, Page 175 of the Public Records of Brevard, Florida.

**WITNESSETH:**

**WHEREAS**, The Developer of INDIAN RIVER LANDINGS is the owner of lands more particularly described as follows:

Parcel 1:

Begin at the intersection of the North line of the South one-half of said Lot 31, with the Easterly right of way line of U.S. Highway No. 1 (a 200.00 foot wide right of way) thence S89°43'24"E, along the North line of the South one-half of said Lot 31, a distance of 551.13 feet, to a point on the Westerly right of way line of Riveredge Drive (a 66.00 foot wide right of way); thence S36°00'52"E, along said Westerly right of way line, a distance of 772.26 feet, to a point on the South line of the North 72.50 feet of said Lot 37; thence N89°43'24"W, along the South line of the North 72.50 feet of said Lot 37, a distance of 692.91 feet; thence N06°26'09"W, a distance of 322.93 feet; thence N89°43'24"W, a distance of 270.00 feet, to a point on the Easterly right of way line of said U.S. Highway No. 1, and a point of intersection with a non-tangent curve, concave Easterly, having a radius of 2,764.93 feet and a central angle of 03°48'19"; thence Northerly, along said Easterly right of way line and along the arc of said curve to the right, a distance of 183.63 feet (said arc subtended by a chord bearing N01°54'43"W, a distance of 183.60 feet), to a point of intersection with a non-tangent line; thence N00°00'27"E, along said Easterly right of way line, a distance of 118.28 feet, to the POINT OF BEGINNING; Containing 8.95 acres, more or less.

Parcel 2:

A portion of Lots 31 through 37, SECOND ADDITION TO INDIAN RIVER CITY, FLORIDA according to the plat thereof as recorded in Plat Book 2, Page 73, of the Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at the intersection of the North line of the South one-half of said Lot 31 with the Easterly right of way line of U.S. Highway No. 1 (a 200.00-foot-wide right of way); thence S89°43'24"E, along the North line of the South one-half of said Lot 31, a distance of 633.01 feet, to a point on the Easterly right of way line of Riveredge Drive (a 66.00-

foot- wide right of way) and the POINT OF BEGINNING of the herein described parcel; thence continue S89° 43'24"E, along the North line of the South one-half of said Lot 31, a distance of 22.11 feet, to a point on the Mean High Water Level Line of the Indian River; thence the following 9 courses along said Mean High Water Level Line: (1) S39°28'27"E, a distance of 100.42 feet; (2) S 35°44'56"E, a distance of 109.26 feet; (3) S 36°41'42"E, a distance of 96.33 feet; (4) S36°00'18"E, a distance of 91.06 feet; (5) S 35 ° 23'56"E, a distance of 92.63 feet; (6) S 37 ° 23'31"E, a distance of 101.22 feet; (7) S 40 ° 10'56"E a distance of 86.47 feet; (8) S 36° 09'13"E, a distance of 76.14 feet; (9) S 44°24'45"E, a distance of 33.90 feet, to a point on the South line of the North 72.50 feet of said Lot 37; thence N 89 °43'24"W, along the South line of the North 72.50 feet of said Lot 37, a distance of 46.35 feet, to a point on the Easterly right of way line of said Riveredge Drive; thence N 36 °00'52"W, along said Easterly right of way line, a distance of 772.26 feet, to the POINT OF BEGINNING;

Containing 0.45 acres, more or less.

**WHEREAS**, the above described real property shall hereinafter be referred to as the "Property"; and

**WHEREAS**, it is contemplated that the Property is to be developed into twenty-two (22) single family Lots; and

**WHEREAS**, Developer desires to create a residential community with open space green belt areas and such other common facilities as may be specifically designated on the Plat of INDIAN RIVER LANDINGS for the benefit of said community; and

**WHEREAS**, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of open space green belt areas and other common facilities as may be specifically designated on the Plat of INDIAN RIVER LANDINGS, and to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of the Property and each Owner thereof; and

**WHEREAS**, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an Association to which should be delegated and assigned the powers of maintaining and administering the community properties and facilities; administering and enforcing the covenants and restrictions; collecting and disbursing the assessments and charges hereinafter created; and

**WHEREAS**, Developer will incorporate the Association referred to in Article I (as a non-profit corporation) under the Laws of the State of Florida for the purpose of exercising the functions aforesaid;

**NOW THEREFORE**, the Developer declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens of the covenants, (sometimes referred to as "covenants and restrictions") herein set forth.

**ARTICLE I**  
**DEFINITIONS**

**SECTION 1.** The foregoing words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

a. "Association" shall mean and refer to INDIAN RIVER LANDINGS HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit. The Restated Articles and By-Laws are attached hereto as Exhibit "A" and "B" respectively.

b. "Common Property" or "Common Properties" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners as shown on the Plat of INDIAN RIVER LANDINGS.

c. "Developer" or "Declarant" shall mean RIVER EDGE DEVELOPMENT LLC, a Florida limited liability company.

d. "Home" shall mean each residential home and appurtenances thereto constructed on the Lots within Indian River Landings. A Home shall be deemed created and have perpetual existence upon the issuance of a certificate of occupancy for such Home. The term Home includes any interest in land improvements or other property appurtenant to the Home.

e. "Lot" shall mean and refer to any of Lots 1-22, inclusive, as shown on the recorded Plat of the Property with exception of Common Properties, as heretofore defined.

f. "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Article III, Section 1, hereof.

g. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot. Owner shall not mean or refer to any mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

h. "Property" shall mean and refer to the real property described in the Plat of INDIAN RIVER LANDINGS recorded in Plat Book 63, Page 54, Public Records of Brevard County, Florida.

i. "Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

**ARTICLE II.**  
**PROPERTY SUBJECT TO THIS DECLARATION:**  
**ADDITIONS THERETO**

**SECTION 1. Property.** The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in the City of Titusville, Brevard County, Florida, and is more particularly described in the Plat of the INDIAN RIVER LANDINGS.

**SECTION 2. Additional Property.** The Developer may add such additional property or Lots, as Developer, its successors or assigns, may from time to time designate as being subject to this Declaration by the placing of record an instrument executed with formalities of a deed, making such designation.

**ARTICLE III.**  
**MEMBERSHIP AND VOTING RIGHTS OF THE ASSOCIATION**

**SECTION 1. Membership.** Every person or entity who is the Owner of a fee simple or undivided fee simple interest in any Lot subject to assessment, and any buyer who acquires title to a Lot, shall be Members of the Association. Any person or entity who holds an interest merely as a security for the performance of an obligation shall not be a Member. Membership shall be appurtenant to and may not be separated from Ownership of any Lot which is subject to assessment.

**SECTION 2. Voting Rights.** The Association shall have one class of voting Membership. Each Owner of a Lot or Lots evidenced by a deed duly recorded in the Public Records of Brevard County, Florida shall be entitled to one (1) vote for each Lot an Owner owns.

**SECTION 3. Transfer of Control.** With respect to the Association:

a. Members other than the Developer is entitled to elect at least a majority of the Members of the Board of Directors of the Association, when the earlier of the following events occurs:

- (1) Three months after ninety (90%) percent of the Lots have been conveyed to Members; or
- (2) Five years from the date of the closing of the first sale of a Lot to a third party, whichever shall occur first.

b. The Developer is entitled to appoint at least one Member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business at least one of the Lots in INDIAN RIVER LANDINGS. After the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer owned voting interest in the same manner as any other Member, except for purposes of reacquiring control of the Association or selecting a majority of the Members of the Board of Directors.

**ARTICLE IV.**  
**PROPERTY RIGHTS IN THE COMMON PROPERTY**

**SECTION 1. Members' Easements of Enjoyment, Common Property.** Every Member shall have a right and easement of enjoyment in and to the Common Property and such easement shall be appurtenant to and shall pass with the title to every Lot.

**SECTION 2. Extent of Members' Easement.** The easement and right of enjoyment created hereby shall be subject to the following:

a. The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and

b. If a Member is more than ninety (90) days delinquent in paying a monetary obligation due to the Association, the Association may suspend the rights of the Member, or the Member's tenants, guests or invitees to use Common Properties and Facilities until the monetary obligation is paid in full. The suspension does not apply to that portion of Common Properties used to provide access or utilities services to the Lot. The suspension does not impair the right of an owner or tenant of a Lot to have vehicular and pedestrian ingress/egress to and from their Lot, including, but not limited to, the right to park. The notice and hearing requirements under Chapter 720, Florida Statutes, do not apply to a suspension imposed under this subsection; and

c. After turnover of control of the Association to Owners other than the Developer the right of the Association to transfer all or any part of its interest in the Common Property as may be hereafter acquired to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions hereof, shall be effective unless an instrument signed by Members entitled to cast three-fourths (3/4) of the votes (as defined in Article III, Section 2) has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least ninety (90) days in advance of any action taken.

**SECTION 3. Construction and Sales.** There is hereby reserved to the Developer, its designers, successors and assigns, (including without limitation, its agents, sales agents and representatives, and prospective purchasers of Lots), easements over the Common Property, for construction, utility lines, display, maintenance and exhibit purposes in connection with the erection of Homes and other improvements and sale of Lots within the Property and for ingress and egress to and from construction sites at reasonable times; provided, however, that such use shall terminate upon the sale of all Lots by the Developer and its express successors and assigns and provided, further, that no such use by the Developer and others shall otherwise restrict the Owners in the reasonable use and enjoyment of the Common Property. Nothing herein shall prohibit the Developer, its successors and assigns, from maintaining a sales office and signage on the Property so long as the Developer owns at least one Lot.

**ARTICLE V.**  
**COVENANT FOR MAINTENANCE ASSESSMENTS**

**SECTION 1. Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance including any purchaser at a judicial sale, shall be deemed to covenant and agree to pay to the Association (1) annual assessments or charges; and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment, together with such interest thereon and the cost of collection thereof as hereinafter provided, is owing and shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. Assessments levied pursuant to the annual budget or special assessments shall be in the Lot Owner's proportional share of expenses which is one-twenty second (1/22) for all Lots.

**SECTION 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in INDIAN RIVER LANDINGS, including, but not limited to:

- a. Payment of operating expenses of the Association including, but not limited to, professional management fees;
- b. Maintenance, landscaping, improvement and operation of Common Property, open space, easement areas, sidewalks, and landscape buffer;
- c. Maintenance, landscaping, and improvement of entrance areas to the Common Property and common docks.
- d. Maintenance, landscaping, and improvement of lands dedicated to the public which are located within or adjacent to the Property such as landscape buffer along any dedicated right-of-way.
- e. Maintenance, landscaping, and improvement of subdivision walls and fences, if any, located within or adjacent to the Property;
- f. Payment of taxes, hazard and general liability insurance for the Common Property, and errors and omissions insurance for Directors and Officers, labor and equipment for the Common Properties;
- g. Payment of electric and utility bills for the Common Properties, if applicable.
- h. Repayment of funds and interest thereon that have been or may be borrowed by the Association for any of the aforesaid purposes;

i. Establishment of reserve funds for capital expenditures and deferred maintenance, to maintain, replace or repair of the Common Properties, including painting, fencing, masonry walls, common docks and any other items as designated by the Board. The Developer may waive establishing reserves until transfer of control of the Association to Owners other than the Developer;

j. The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operation, maintain or repair.

k. Assessments shall also be used for the maintenance and repair of the surface water or stormwater management systems including but not limited to work within retention areas, drainage structures and drainage easements.

l. Doing any other thing necessary or desirable in the judgment of said Association (acting through its Board of Directors), to keep the subdivision neat and attractive or to preserve or enhance the value of the properties therein, or to eliminate fire, health or safety hazards.

m. Maintenance and repairs required for the central irrigation systems, if any.

n. The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, is approved by the applicable governmental agency.

o. The Association shall operate, maintain and manage the surface water or stormwater management system(s) in the manner consistent with the Saint Johns River Water Management District Permit # 100704-2 requirements and applicable district rules, and shall assist in the enforcement of the Declaration of Covenants and Restrictions which relate to the surface water or stormwater management system.

p. It shall be the responsibility of the Owner of any Lot containing any portion of an easement, swale area or landscape buffer to irrigate, maintain and insure the perpetual survivability of the required trees and vegetation planted within the buffer or otherwise comply with the terms of the easements. The failure to comply with this provision may result in fines or special assessments imposed by the Association or other regulatory agencies.

**SECTION 3. Initial Assessment.** The working capital contribution to the Homeowner's



Association working capital fund account for each Lot shall be the sum of Five Hundred and 00/100 (\$500.00) dollars payable at the time of closing. The working capital contribution shall be a one-time assessment on the initial sale, and shall be due in addition to the Annual Assessments as provided herein.

**SECTION 4. Basis and Maximum of Annual Assessments.** The Annual Assessment shall be established each year by the Board of Directors. Each Lots liability for the payment of assessments, regular or special, is determined by a fraction, the numerator of which is one and the denominator of which is the total number of Lots in Indian River Landings. There are a total of twenty-two (22) Lots as shown on the Plat of Indian River Landings. The annual assessment may be increased each year by the Board of Directors of the Association to an amount not more than twenty percent (20%) above the maximum assessment for the previous year without a vote of approval by a majority of the Membership. The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount. The Board of Directors of the Association may fix the annual assessment without notice or meeting of Members provided such assessment does not exceed the maximum increase set forth above.

**SECTION 5. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized by Section 1 hereof, the Association may levy in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Property including the necessary fixtures and personal property related to the Common Properties provided that such assessment shall have the assent of a majority of the votes (as defined in Article III, Section 2) of Members who are present in person or by proxy at a meeting duly called for that purpose, at which a quorum is present, written notice of which shall be sent to all Members at least ten (10) days in advance and shall set forth the purpose of the meeting. Notwithstanding any other provision in this Declaration the Association may levy a special assessment not exceeding One Thousand and No/100 (\$1,000.00) Dollars per Lot at anytime for the purposes stated herein without the approval of the Owners or Members.

**SECTION 6. Change in Basis and Maximum of Annual Assessments.** Subject to the limitations of Section 4 hereof, and the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section 4 hereof prospectively for any such period provided that any such change shall have the assent of the majority of the votes (as defined in Article III, Section 2) of the Members who are present in person or by proxy, at a meeting duly called for that purpose, at which a quorum is present, written notice of which shall be sent to all Members at least fifteen (15) days and not more than sixty (60) days in advance and shall set forth the purpose of the meeting.

**SECTION 7. Quorum for any Action Authorized Under Sections 5 and 6.** The Quorum required for an action authorized by Sections 5 and 6 hereof shall be as follows:

The presence of a majority of the Members entitled to vote, in person or by proxy, at a duly called meeting of the Members shall constitute a quorum. If the required quorum is not forthcoming

at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 5 and 6, and the required quorum at any such subsequent meeting shall be thirty percent (30%) of all the votes of the Membership, provided that no such subsequent meeting shall be held more than fifteen (15) days following the preceding meeting.

**SECTION 8. Date of Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall commence on that date (which shall be the first day of the month) fixed by the Board of Directors of the Association to be the date of commencement of the annual assessment.

The due date of any special assessment under Section 5 hereof shall be fixed in the resolution authorizing such assessment.

**SECTION 9. Duties of the Board of Directors.** In addition to such other duties vested in the Board of Directors of the Association in the Articles of Incorporation and the By-Laws of the Association, the Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall, upon demand at any time, furnish to any Owner liable for said assessment, a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

**SECTION 10. Effect of Nonpayment of Assessment: The Personal Obligation of the Owner; The Lien; Remedies of Association.** If an assessment is not paid on the date when due (being the dates specified in Section 8 hereof), then such assessment shall become delinquent and shall, together with such interest thereon, late charges and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot to which such assessment relates.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum.

The Association has a lien on each Lot to secure the payment of assessments and other amounts provided for in this Section. Except as otherwise set forth in this Section, the Association's lien is effective from and shall relate back to the date on which the original Declaration of Indian River Landings was recorded. However, as to first mortgagees of record, the Association's lien is effective from and after recording by the Association of a claim of lien in the Public Records of Brevard County. This Section does not bestow upon any lien, mortgage or certified judgment of record on July 1, 2008, including the liens unpaid assessments created by this Section, a priority that by law, the lien, mortgage or judgment did not have before July 1, 2008.

To be valid, the Association's claim of lien must state the description of the Lot, the name of the record Owner, the name and address of the Association, which is Indian River Landings Homeowner's Association, Inc. and whose address is the mailing address set forth in the annual report of the Association filed with the Florida Department of State Division of Corporations, which is available to all Members on www.Sunbiz.org, the assessment amount due and the due date. The Association's claim of lien shall secure all unpaid assessments that are due and that may accrue subsequent to the recording of the claim of lien and before entry of a certificate of title, as well as interest, late charges and reasonable costs and attorney fees incurred by the Association incident to the collection process. The person making the payment is entitled to a satisfaction of lien upon payment in full.

By recording a notice in substantially the following form, the Lot Owner or the Lot Owner's agent or attorney may require the Association to enforce the recorded claim of lien against the Lot Owner's Lot:

#### **Notice of Contest of Lien**

To: Indian River Landings Homeowners Association, Inc.  
1600 North Atlantic Avenue, Suite 201  
Cocoa Beach, FL 32931

You are notified that the undersigned contest the claim of lien filed by you on \_\_\_\_\_, 20\_\_\_\_, and recorded in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_ of the Public Records of Brevard County, Florida and that the time within which you may file suit to enforce the lien is limited to ninety (90) days following the date of service of this notice.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed: \_\_\_\_\_  
Owner or Attorney

After the Notice of Contest of Lien has been recorded, the clerk of the circuit court shall mail a copy of the recorded notice to the Association by certified mail, return receipt requested, at the address shown in the claim of lien or most recent amendment to it and shall certify to the service on the face of the notice. Service is complete upon mailing. After service, the Association has ninety (90) days in which to file an action to enforce the lien and, if the action is not filed within the ninety (90) day period the lien is void. However, the ninety (90) day period shall be extended for any length of time that the Association is prevented from filing its action because of an automatic stay resulting from the filing of a bankruptcy petition by the Lot Owner or by any other person claiming interest in the Lot.

The Association may bring an action in its name to foreclose a lien for assessments in the same manner in which a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. The

Association is entitled to recover its reasonable attorney fees incurred in the action to foreclose the liens or an action to recover a money judgment for unpaid assessments.

A Lot Owner, regardless of how the Lot Owner's title to property has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure is liable for all assessments that come due while the Lot Owner owns the Lot. The Lot Owner's liability for assessments may not be avoided by waiver or suspension of the use or enjoyment of any common areas or by abandonment of the Lot upon which the assessments are made.

A Lot Owner is jointly and severally liable with the previous Lot Owner for all unpaid assessments that came due up to the time of transfer. This liability is without prejudice to any right the present Lot Owner may have to recover any amounts paid by the present Owner from the previous Owner.

The liability of the first mortgagee, or its successor or assignee as a subsequent holder of the first mortgage who acquires title to a Lot by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due before the mortgagee's acquisition of title, shall be the lesser of:

1. The Lot's unpaid common expenses and regular periodic or special assessments that accrued or came due during the twelve (12) months immediately preceding the acquisition of title and for which payment in full has not been received by the Association;
2. One (1%) percent of the original mortgage debt.

The limitations on first mortgagee liability provided by this paragraph apply only if the first mortgagee filed suit against the Lot Owner and initially joined the Association as a defendant in the mortgage foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location that was known to or reasonably discoverable by the mortgagee.

The Association may charge an administrative late fee in an amount not to exceed the greater of \$25.00 or five (5%) percent of the amount of each installment if paid past the due date.

Any payment received by the Association and accepted shall be applied first to any interest accrued, then to any administrative late fees, then to any costs and reasonable attorney fees incurred in collection, and then to the delinquent assessments. This Section applies notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying payment. A late fee is not subject to provisions of Chapter 687, Florida Statutes, and is not a fine.

The Association may not file a lien against the Lot for unpaid assessments unless a written notice or demand for past due assessments as well as any other amounts owed to the Association has been made by the Association. The written notice or demand must:

- a. Provide the Owner with forty-five (45) days following the date the notice is deposited

into the mail to make payment for all amounts due, including, but not limited to, any attorney fees and actual costs associated with the preparation and delivery of the written demand.

b. Be sent by registered or certified mail, return receipt requested, and by first class United States mail to the Lot Owner at his or her last address as reflected in the records of the Association, if the address is within the United States, and to the Lot Owner subject to the demand at the address of the Lot if the Owner's address is reflected in the records of the Association is not the Lot address. If the address reflected in the records is outside the United States, then sending the notice to that address and to the Lot address by first class United States mail is sufficient.

The Association may bring an action in its name to foreclosure a lien for unpaid assessments secured by a lien in the same manner that a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. The action to foreclose the lien may not be brought until forty-five (45) days after the Lot Owner has been provided notice of the Association's intent to foreclose and collect the unpaid amount. The notice must be given in the manner provided in the paragraph above, and the notice may not be provided until the passage of the forty-five (45) days required for the written notice or demand for payment has occurred.

The Association may recover any interest, late charges, costs and reasonable attorney fees incurred in a lien foreclosure action or in an action to recover a money judgment for the unpaid assessments.

The time limitations in this Section 10 do not apply if the Lot is subject to a foreclosure action or forced sale of another party, or if an Owner of the Lot is a debtor in a bankruptcy proceeding.

If the Lot is occupied by a tenant and the Lot Owner is delinquent is paying any monetary obligation due to the Association, the Association may demand that the tenant pay to the Association the subsequent rental payments and continue to pay such payments until all the monetary obligations of the Lot Owner related to the Lot have been paid in full to the Association and the Association releases the tenant or until the tenant discontinues tenancy in the Lot.

The Association must provide the tenant a notice, by hand delivery or United States mail, in substantially the following form:

Pursuant to Section 720.3085(8), Florida Statutes, we demand that you make your rent payment directly to the Homeowner's Association and continue doing so until the Association notifies you otherwise.

Payment due the Homeowners Association may be in the same form as you paid your landlord and must be sent by United States mail or hand delivery to Indian River Landings Homeowners Association, Inc., 1600 North Atlantic Avenue, Suite 201, Cocoa Beach, FL 32931.

Your obligation to pay your rent to the Association begins immediately, unless you have already paid rent to your landlord for the current period before receiving this notice. In that case, you must provide written proof of your payment within fourteen (14) days after receiving this notice and your obligation to pay rent to the Association will then begin with the next rental period.

Pursuant to Section 720.3085(8), Florida Statutes, your payment of rent to the Association gives you complete immunity from any claim for the rent by your landlord.

The tenant is immune from any claim by the Lot Owner related to the rent timely paid to the Association after the Association has made written demand.

If the tenant paid rent to the landlord or Lot Owner for a given rental period before receiving the demand from the Association and provides written evidence to the Association of having paid the rent within fourteen (14) days after receiving the demand, the tenant shall begin making rental payments to the Association for the following rental period and shall continue making rental payments to the Association to be credited against the monetary obligations of the Lot Owner until the Association releases the tenant or the tenant discontinues tenancy in the Home. The Association shall, upon request, provide the tenant with written receipts for payments made. The Association shall mail written notice to the Lot Owner of the Association's demand that the tenant pay monetary obligation to the Association.

The liability of the tenant may not exceed the amount due from the tenant to the tenant's landlord. The tenant shall be given a credit against rents due to the landlord in the amount of assessments paid to the Association.

The Association may issue notice under Section 83.56, Florida Statutes, and sue for eviction under Sections 83.59 – 83.625, Florida Statutes, as if the Association were a landlord under Part II of Chapter 83, Florida Statutes, if the tenant fails to pay a monetary obligation. However, the Association is not otherwise considered a landlord under Chapter 83, Florida Statutes and specifically has no obligations under Section 83.51, Florida Statutes.

The tenant does not, by virtue of payment of monetary obligations, have any of the rights of a Lot Owner to vote in any election or to examine the books and records of the Association.

The Court may supersede the effect of this Section by appointing a receiver.

In any action by the Association for unpaid assessments, the Lot Owner shall pay into the court registry the amount alleged in the complaint as unpaid, or if such amount is contested, such amount as is determined by the court, plus any assessments accruing during the pendency of the action, when due, unless the Owner has interposed the defense of payment or satisfaction of the assessments in the amount the complaint alleges as unpaid. However, even if the defense of payment or satisfaction has been asserted, the court may order the Owner to pay into the court registry the

assessments accruing during the pendency of the action. If the Owner does not dispute the amount of accrued assessments, the Owner must pay the amount alleged in the complaint into the court registry on or before the date on which his or her answer to the claim for unpaid assessments is due. If the Owner contests the amount of accrued assessments, the Owner must pay the amount determined by the court into the court registry on the day that the court makes its determination. The court may, however, extend these time periods to allow for later payment upon good cause shown.

If the Owner contests the amount of money to be placed into the court registry, any hearing regarding such dispute shall be limited to only the factual or legal issues concerning;

(a) Whether the Owner has been properly credited by the Association with any assessment payments made; and

(b) What properly constitutes assessments under the governing documents.

The court, on its own motion, shall notify the Owner that assessments must be paid into the court registry by order, which shall be issued immediately upon filing the Owner's initial pleading, motion, or other paper.

The filing of a counterclaim for money damages does not relieve the Owner from depositing assessments due into the registry of the court.

Failure of the Owner to pay the assessments into the court registry pursuant to court order is an absolute waiver of the Owner's defenses. In such case, the Association is entitled to an immediate default without further notice or hearing thereon.

If the Association is suffering hardship resulting from the loss of assessment income from the Home, the Association may apply to the court for disbursement of all or part of the funds held in the court registry.

**SECTION 11. Exempt Property.** The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

a. All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use.

b. All Common Properties as defined in Article I.

c. All properties exempted from taxation by the laws of the State of Florida, upon the terms and to the extent of such legal exemption.

d. The Developer shall be excused from the payment of Assessments for Lots owned by the Developer until the Developer transfers control of the Association to Lot Owners other than the Developer; provided the Developer shall pay any operating expenses that are incurred by the Association and not produced by the assessments levied against Lot

Owners other than the Developer.

Notwithstanding any provisions herein, no Lot shall be exempt from said easements, charges or liens.

**SECTION 12. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots (regardless of size or location). Assessments may be paid monthly, quarterly, semi-annually or annually at the sole discretion of the Board.

**SECTION 13. Developer's Guaranty of Operating Expenses and Assessments.** The Developer shall be excused from the payment of its share of operating expenses or common expenses and assessments related thereto on the Lots its owns in INDIAN RIVER LANDINGS for the period of time commencing with the recording of this Declaration of Covenants, Conditions and Restrictions until turnover of control of the Association to Owners other than the Developer, during which period of time Developer has obligated itself to pay any operating expenses or common expenses incurred by the Association that exceeds the assessments receivable from the other Owners and other income of the Association. The Developer guarantees that the assessments for operating expenses or common expenses of INDIAN RIVER LANDINGS imposed upon the Owners shall not increase over the stated amount and obligates itself to pay any amount of operating expenses or common expenses incurred during said periods of time not produced by the assessments at the guaranteed level. Beginning with the recording of the Declaration of Covenants, Conditions and Restrictions and ending one (1) year thereafter, the monthly assessment per Lot shall not exceed \$1200.00 per month. The Developer's guaranty of the budget shall terminate upon transfer of control of the Association to Lot Owners other than the Developer.

**SECTION 14. Reserves for capital improvements and deferred maintenance.** In addition to the annual operating expenses, the budget may include reserve accounts for capital expenditures and deferred maintenance for which the Association is responsible. The amount to be reserved shall be computed by means of a formula that is based upon estimating remaining useful life and estimated replacement costs or deferred maintenance expense of each reserve item. The Association may adjust the replacement reserve assessments annually to take into account any changes in estimates of costs or useful life of the reserve item. After transfer of control of the Association to Owners other than the Developer, on a majority vote at a meeting at which a quorum is present, the Association may provide for no reserves or less reserves as required by the Homeowners Association Act, Chapter 720, Florida Statutes. After turnover, the Developer may vote its voting interest to waive or reduce the funding of reserves. Any vote taken to waive or reduce reserves is applicable only to one budget year. The amount of the contribution to each reserve account is the sum of the following two calculations:

- a. The total amount necessary, if any, to bring a negative component balance to zero.
- b. Total estimated deferred maintenance expense or estimated replacement cost of the reserve component less the estimated balance of the reserve component as of the beginning of the period the budget will be in effect. The remainder, if greater than zero, shall



be divided by the estimated remaining useful life of the component. The formula may be adjusted each year for changes in estimates and deferred maintenance performed during the year and may include factors such as inflation and earnings on invested funds. The reserve account may be terminated upon approval of a majority of the total voting interest of the Association. Upon such approval, the terminated reserve account shall be removed from the budget.

## ARTICLE VI.

### GENERAL USE RESTRICTIONS AND CONSTRUCTION REQUIREMENTS

#### SECTION 1. General Lot Use Restrictions.

a. All garage doors must be maintained in a reasonable well maintained condition by the Lot Owner. No first floor garage shall be converted to living quarters.

b. Private in ground swimming pools may be constructed. Above ground pools are prohibited.

c. All fences constructed or maintained on any Lot must have the prior written consent of the Association. All fencing must be approved by the Association and shall not exceed four (4) feet in height and shall be constructed entirely of metal or aluminum material. No wood, privacy or stockade fencing shall be allowed on any Lot. The fencing shall consist of vertical railing no less than four (4) inches apart. The fence shall include horizontal bracing along the top and bottom on the vertical rails for structural support. The finished color of all approved fencing shall be black only. The location of any approved fencing shall not be located beyond the rear building setbacks for any Lot that is adjacent to a stormwater pond. Lots 14, 15, 16, 17, and 18 may install fencing along the side and rear property lines. There shall be no fencing approved within the front building setback of any Lot. There may be other locations on a Lot that fencing may be approved by the Association; however there shall be no approved variances to the style or color of fencing.

d. No Lot or any part thereof shall be used for any purpose except as a private dwelling, nor shall any business of any kind be conducted therein. No business or trade of any kind, including transient rentals, or noxious or offensive activity shall be carried on upon any Lot within or without the dwelling, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No mobile home, shack or other such structure shall be located, erected or used on any Lot, temporarily or permanently, except that building contractors may erect and maintain temporary structures, including trailers, during the period of residential construction in the subdivision and as incident thereto. Nothing may be attached to or placed on the Common Property without prior approval. Nothing shall be affixed permanently or temporarily to the building without approval.

e. Air conditioning units, pumps, and other apparatus must be screened with landscaping.

f. Parking is not allowed on any road right of ways. No resident shall park any boat, motor home, trailer, commercial van or other commercial vehicle in any driveway or on any part of a Lot visible from the street. Commercial vehicles include trucks with more than four tires or over 3/4 ton, and/or vehicles with temporary or permanent signage affixed. Prior written approval of the Board of Directors to temporarily park any such vehicle is required and may not exceed four (4) forty-eight (48) hour periods in any 365 day period. No non-operating or non-functioning vehicle of any kind shall be permitted to be parked in the yard or in the driveway of any Lot or on any street in the Property. The parking of commercial vehicles, which description shall include, but not be limited to trucks, truck-tractors, semi-trailers and commercial trailers as well as the parking of any travel or recreation trailers, including self-propelled or those towed, as well as any mobile homes, at any time on driveways or otherwise on said premises is prohibited except for loading or unloading purposes or when parked entirely within a garage. There shall be no repair, except emergency repair, performed on any motor vehicle or boat on or adjacent to any Lot in this subdivision. It is acknowledged and agreed by all Owners of Lots in this subdivision by purchasing said property that a violation of any of the provisions of this paragraph shall impose irreparable harm to the other Owners in this subdivision. Said Owners further agree that a reasonable assessment of such damages would be \$50.00 for each day that such violation persists after an Owner of a Lot is notified, in writing, of such violation by either the Developer or a duly elected representative of the Association.

**SECTION 2. Animals.** No reptiles, animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except for dogs, cats, birds or other usual and customary household pets, provided that the same are not kept, raised or maintained for business or commercial purposes or in numbers deemed unreasonable by the Developer or Association in the exercise of their reasonable discretion. Numbers in excess of two (2) of each such type of household pets (excluding aquarium-kept tropical fish) shall be considered unreasonable. All domestic pets shall either be kept on a leash and be within the control of the pet's Owner or be kept within an enclosed area on the respective Owner's Lot at all times. Owners must promptly clean up after their pets, including their body wastes. Pets shall not create a nuisance.

**SECTION 3. Garbage.** Garbage or rubbish shall not be dumped or allowed to remain on any Lot. Garbage, rubbish or other debris, properly contained in a metal or plastic receptacle, shall be placed outside the dwelling for collection on the day, or after sunset on the day before scheduled collection, in accordance with the regulations of the collecting agency. At all other times, such receptacles shall be placed on the Lot so as not to be visible from the road.

**SECTION 4. Easements.**

a. Perpetual easements for the installation, construction, reconstruction, maintenance, repair, operation and inspection of sewer, water and drainage facilities, and sidewalks for the benefit of the adjoining land Owners and/or Developer, authority, commission, municipality or other agency, supplying sewer, water and/or drainage facilities, are reserved as shown on the Plat of Indian River Landings; also, easements in general in and

over each Lot for the installation of water, sewer, cable television, electrical, gas and telephone facilities. No building or structure shall be erected nor any paving laid nor any filling or excavation done within the easement areas occupied by or reserved for such facilities. The easements described herein shall be shown on the recorded plot plan or survey as described above.

b. Developer and its successors and assigns shall at all times have the right of ingress and egress in, over, under and across the aforesaid easements, and a right-of-way easement for the purpose of installing, constructing, reconstructing, maintaining, repairing, operating and inspecting any such sewer, water, drainage, electric, gas and telephone facilities within such easements and right-of-way areas, along the lines designated for such purposes on the aforesaid plot plan or survey and shall also have an easement and right-of-way in general in and over each Lot for access to such easement areas and the facilities located therein, and for installing, operating, maintaining, repairing, inspecting and reading any meters appurtenant to such facilities.

c. The Developer, its successors and assigns and the Association shall have at all times perpetual easements of ingress and egress in, over, under and across all Lots to maintain and/or replace all landscaping, subdivision walls and fencing, including grass, located outside of the building pads, if an Owner fails to maintain their Lot.

**SECTION 5. Billboards.** No billboards, signboards or advertising devices shall be maintained on any Home or Lot except that this clause shall not limit the right of the Owners to advertise their Home for sale. Signs may not exceed four (4) square feet in size and must be approved by the Board of Directors in advance. Nothing herein contained shall limit the right of individual Owners from placing on their own Lot one "For Sale" sign however, the sign must look professionally made and have Board of Directors approval. Political signs are prohibited. Signs in windows are prohibited, except security system warning labels not to exceed 10 square inches each.

**SECTION 6. Outside Installations.** No radio or television signals nor any other form of electromagnetic radiation shall be permitted to originate from any Lot which interferes with the reception of television or radio received upon any other Lot. No outside antenna for radio or television shall be constructed, erected or maintained at anytime on any Lot without the prior approval of the Architectural Review Committee. Television satellite dishes may not be installed without specific prior written approval of the Architectural Review Committee. However, the Board of Directors must conform to any and all Federal regulations regarding satellite dishes. Small satellite dishes that do not exceed 18" in diameter are permitted to be installed by Owners in locations approved by the Association.

**SECTION 7. No Offensive Activity.** No noxious or offensive activity shall occur on any Lot. Nothing contained herein shall prohibit or impair the business of Developer and Builders in developing all of the Lots as single family residences.

**SECTION 8. Insurance.** No Owner shall do or keep on a Lot anything which would increase the rate of insurance relating thereto without the prior written consent of the Board of

Directors, and no Owner shall permit anything to be done or kept on their Lot which would result in the cancellation of insurance on any residence or which would be in violation of any law.

**SECTION 9. Window Air-Conditioning Units.** No window air conditioning units shall be permitted.

**SECTION 10. Skateboard Ramps.** Skateboard ramps and devices of a similar nature shall not be permitted.

**SECTION 11. Solar Systems.** No solar heating system or any solar system shall be installed on a roof or otherwise without the prior written consent of the Association.

**SECTION 12. Burning.** No burning of leaves, trash, rubbish, garbage or other waste materials of any type shall be permitted or conducted on the Property. Nothing herein contained, however, shall be deemed to prohibit the burning of wood, logs or charcoal in properly constructed or installed fireplaces, barbecue cookers or the like, whether inside or outside of any building or other structure located on a Lot.

**SECTION 13. Storage Tanks** No storage tank, including but not limited to, those for water, oil, propane gas, or other liquid, fuels or chemicals, including those used for swimming pools or the like, shall be permitted outside of a Building on a Lot unless the same shall be underground or placed inside of walls, fences, landscaping screens or similar type enclosures. In no event shall any of the same be visible from any adjacent or neighboring Lots and Board of Directors approval must be obtained prior to installation.

**SECTION 14. Changes Affecting Drainage.** No Lot Owner, without the express prior written consent of the Board of Directors or Developer, shall construct any improvements or make any changes to a Lot which shall have the result of changing, altering or affecting the natural or artificial water courses, canals, ditches, swales, ponds or drainage of the Property, and all construction, grading and landscaping shall conform to the drainage swale requirements set forth on the plot plan or survey of the Property.

**SECTION 15. Rules and Regulations** In addition to the forgoing restrictions on the use of Lots, common areas, and common docks, the Association shall have the right, power and authority, to promulgate and impose reasonable rules and regulations governing and/or restricting the use of a Lot and Common Property and to thereafter change, modify, alter, amend, rescind and augment any of the same; provided, however, that no rules or regulations so promulgated shall be in conflict with the provisions of this Declaration. Any such rules and regulations so promulgated by the Association shall be deemed promulgated when adopted by the Board of Directors of the Association and shall be applicable to and binding upon all Lots and the Owners thereof and their successors and assigns, as well as all guests or invitees of and all parties claiming by, through or under such Owners.

**SECTION 16. Developer Rights.** Nothing contained in these Covenants and Restrictions shall be interpreted or construed to prevent the Developer, its successors or assigns, or the Developer's contractors or subcontractors, from going or performing on all or any part of the Property

owned or controlled by the Developer whatever the Developer deems reasonably necessary in connection with the completion of the development, including without limitation:

- a. erecting, constructing, maintaining thereon, such structures as may be reasonably necessary for the conduct of the Developer's business of completing the development and establishing the Property as a single family residence community and disposing of the same in Lots and Single Family Residences by sale, lease or otherwise;
- b. conducting thereon its or their business;
- c. maintaining a sales office and model home on any Lot or on the Property, including parking and use of common property for sales activities;
- d. placing signs on Lots and/or Common Properties.

**SECTION 17. Waiver of Minor Violations.** Where an improvement has been erected or the construction thereof is substantially advanced and it is situated on any Lot in such a manner that same constitutes a violation or violations of any of this Declaration, the Association, its successors and/or assigns shall have the right at any time to release such Lot or portions thereof from such part of the provisions of said Declaration as are violated, provided, however, that said Association, its successors and/or assigns, shall not release a violation or violations of any of said Declaration except as to violations it determines to be minor, in its sole discretion, and the power to release any such Lot or portions thereof from such a violation or violations shall be dependent on a determination by the Association that such violation or violations are minor.

**SECTION 18. Underground Utilities.** Underground utilities must be installed; above ground utility lines are prohibited.

**SECTION 19. Rentals.** Each Owner shall be permitted to rent his/her single family residence with each rental having a minimum duration of one hundred eighty (180) days. Rentals are also subject to the City of Titusville Zoning regulations. Owners who choose to rent their homes must notify the Association, in writing, by filling out a Rental Information Form. This form must be received by the Association at least two (2) weeks prior to the anticipated move in date of the renter.

**ARTICLE VII.**  
**SPECIAL RESTRICTIONS AFFECTING**  
**OPEN SPACE AREAS AND COMMON PROPERTIES**

**SECTION 1. General Intent.** It shall be the intent and purpose of these special restrictions and covenants to maintain and enhance certain areas designated and shown on the Plat hereafter filed for record in the Office of the Clerk of the Court of Brevard County, Florida with respect to the Property as open space areas or Common Properties.

**SECTION 2. Buildings.** It is expressly understood and agreed that no building, tent, trailer or other structure, either temporary or permanent, except as noted elsewhere herein and except as

may be approved by the Board of Directors of the Association, shall be erected or caused to be placed on any lands shown and set aside on the recorded subdivision Plat as a Common Property hereafter filed for record in the Office of the Clerk of the Court of Brevard County, Florida with respect to the Property.

**SECTION 3. Trash.** No dumping of trash, garbage, sewage, sawdust or any unsightly or offensive material shall be placed upon Common Properties.

**SECTION 4. Association Maintenance of Stormwater Retention Areas and Common Property.** The Areas shown as stormwater retention areas and common property, on the Plat of INDIAN RIVER LANDINGS, are Common Properties as defined in Section 1 (hereinafter collectively referred to as "Water Management Areas"). The Water Management Areas shall be the perpetual responsibility of the Association and may in no way be altered from its natural state. Activities prohibited within Conservation Areas and Retention Areas include, but are not limited to, (i) construction or placing of buildings on or above ground; (ii) dumping or placing of soil or other substances such as trash; (iii) removal or destruction of trees, shrubs or other vegetation with the exception of exotic vegetation removal; (iv) excavation, dredging or removal of soil material; (v) diking or fencing except as authorized by the appropriate governmental agencies.

**SECTION 5. Stormwater Retention and Common Property Easement.** There is hereby reserved and granted to the Developer, its successors and assigns, and the Association, their agents, employees, successors and assigns, the right and privilege to enter over, upon and across those areas designated as retention areas and common property ("Common Property" and "Retention Areas") on the Plat of INDIAN RIVER LANDINGS for the purpose of maintenance of said Areas. The rights, privileges and easements granted by this Section may be assigned by the Developer of the Association to the County of Brevard, Florida, in the event a Municipal Service Taxing Unit (MSTU) is established to provide for the operation and maintenance of the Retention Area. The rights, privileges and easements granted by this Section shall not be exercised in a manner inconsistent to the establishment and operation of an MSTU.

**SECTION 6. Easements, Swale Areas and Landscape Buffers.** The Lot Owner shall be responsible for the maintenance, operation and repair of easements, swales and buffers on the homeowners property which include but are not limited to those described on the Plat for Indian River Landings as recorded in Plat Book 63 at Page 54, and that certain Conservation Easement recorded in Official Records Book 7809 at Page 1280, of the Public Records of Brevard County, Florida. Maintenance, operation, and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District and the City of Titusville. Filling, excavating, or other obstructing of the surface water flow in the swales is prohibited.

## **ARTICLE VIII.** **GENERAL PROVISIONS**

**SECTION 1. Duration.** The covenants and restrictions of this Declaration shall run with

and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their representatives, legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time the covenants may be extended as provided by the Marketable Record Title Act, Chapter 712, Florida Statutes or the Homeowners Act, Chapter 720, Florida Statutes.

**SECTION 2. Notices.** Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

**SECTION 3. Enforcement.** In the event of a violation of or failure to comply with the provisions of the Declaration of Covenants, Conditions and Restrictions, and the failure of the Owner of the affected Lot, within ten (10) days following written notice by the Association of such violation or non-compliance and the nature thereof, to cure or remedy such violation, then the Developer, its successors or assigns and licensees, and/or the Association (acting through its Board of Directors) or its duly appointed employees, agents or contractors, shall have and are specifically granted the right and privilege of an easement and license to enter upon the affected Lot or any portion or portions thereof or Improvements thereon, without being guilty of any trespass therefor, for the purpose of undertaking such acts or actions as may be reasonably necessary to cure or eliminate such violation, including injunctive relief; all at the sole cost and expense of the Owner of the affected Lot. Such costs and expenses, together with an overhead expense to the Association of fifteen percent (15%) of the total amount thereof shall be assessed by the Association as an Individual Lot Assessment as provided in this Declaration to the affected Lot and the Owner thereof. Any such Individual Lot Assessment shall be payable by the Owner of the affected Lot to the Association within ten (10) days after written notice of the amount thereof. Any such Individual Assessment not paid within said ten (10) day period shall become a lien on the affected Lot in accordance with the provisions of this Declaration. Reasonable fines in accordance with laws governing Associations, may be established by the Board of Directors and some fines are established herein.

The Association, acting through its Board of Directors, and/or the Developer shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and other changes now or hereinafter imposed by the provisions of this Declaration. Failure by the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. If the Association shall fail to enforce any covenant or restriction herein contained, then, after giving sixty (60) days, written notice to the Association, any Lot Owner may proceed if the Association has not done so within said sixty (60) day period.

**SECTION 4. Easement Reserved Unto Developer Over Lots.** The Developer hereby reserves unto itself and its successors and assigns an easement of ingress and egress over, upon, under and across all Lots as shown on any recorded subdivision plot plan or survey of the Property and such easement shall include, but shall not be limited to the right to use the said Common Property area to erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone

equipment, gas, sewer, water or other public conveniences or utilities and the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance and the right to locate wells, pumping stations and tanks; provided, however, that said reservation and right shall not be considered an obligation of the Developer to provide or maintain any such utility or service.

**SECTION 5. Severability.** Invalidation of any one of these covenants or restrictions by Judgment or Court Order shall in no wise affect any other provisions which shall remain in full force and effect.

**SECTION 6. Subdivision of Lots.** No Lot shall be subdivided, or boundaries changed except with the written consent of the Association and as provided by rules, ordinances and regulations of applicable governmental agencies.

**SECTION 7. Amendment by Developer.**

a. So long as the Developer owns one Lot in INDIAN RIVER LANDINGS notwithstanding anything to the contrary contained herein, Developer shall have the right to amend this Declaration without the consent, approval or joinder of any other person or Owner subject to (b.) below.

b. The amendment of this Declaration, the Articles of Incorporation or Bylaws of the Association need be signed and acknowledged only by the Developer and need not be approved by the Association or Lot Owners or lienors or mortgagees of Lots, whether or not elsewhere required for an amendment.

c. All amendments hereto will be recorded in the Public Records of Brevard County, Florida.

**SECTION 8. Amendments by Association.** Articles XI, XII, XIII and XIV hereof may not at any time be amended without the Developer's express written consent, which consent may be withheld by Developer, in Developer's sole discretion subject to the foregoing after turnover of control of the Association by the Developer, this Declaration of Covenants and Restrictions may be amended by a majority vote of the Board of Directors of the Association and the Owners and any such amendment shall thereafter be recorded in the Public Records of Brevard County, Florida, and shall thereupon become a part of this Declaration of Covenants, Conditions and Restrictions as though the same were first set out herein, unless otherwise specified in this document.

**SECTION 9. Indemnification.** Every Director and every Officer of the Association shall be indemnified, held harmless and defended by the Association against all expenses, liabilities, and judgments including counsel fees, reasonably incurred by or imposed upon them in connection with any proceeding or any settlement of any proceeding to which they may be a party or in which he may become involved by reason of his being or having been a Director or officer of the Association, whether or not they are a Director or Officer at the time such expenses are incurred, ; provided,



however such defense costs and damages shall be subject to recoupment in such cases wherein the Director or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, that in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or Officer seeking such reimbursement or indemnification, indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled. The intent of this indemnification is to afford protection to the Directors and Officers of the Association to the maximum extent allowed by law. The approval of seventy-five (75%) percent of the Board of Directors and seventy-five (75%) percent of the Owners of Lots in the subdivision shall be required to amend this article.

**ARTICLE IX.**  
**SURFACE WATER OR STORMWATER MANAGEMENT SYSTEM**

**SECTION 1. Easement for Access and Drainage.** The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair.

**SECTION 2. Amendment.** Any amendment to the Covenants and Restrictions which alter the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the Common Properties, must have the prior written approval of the City of Titusville and the St. Johns River Water Management District.

**SECTION 3. Enforcement.** The City of Titusville and the St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Covenants and Restrictions which relate to the maintenance, operation and repair of the surface water or stormwater management system.

**ARTICLE X**  
**FINES**

The Association may levy reasonable fines and suspensions as follows:

- a. The Association may levy reasonable fines of up to One Hundred & 00/100 Dollars (\$100.00) per violation against any Member or Member's tenant, guest or invitee for the failure of the Owner of the Lot or its occupant, licensee or invitee to comply with any provision of the Declaration, the Association By-Laws or reasonable rules of the Association. A fine may be levied for each day of a continuing violation with a single notice and opportunity for hearing, except that the fine may not exceed One Thousand & 00/100 Dollars (\$1,000.00) in the aggregate unless otherwise provided in the governing documents. A fine of less than One Thousand & 00/100 Dollars (\$1,000.00) may not become a lien against a Lot. However, fines in excess of One

Thousand & 00/100 Dollars (\$1,000.00) may become liens against the Lot. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the non-prevailing party as determined by the court. The maximum fine that may be levied by the Association is unlimited.

- b. The Association may suspend, for a reasonable period of time, the right of a Member, or Member's tenants, guests, or invitees to use the common areas and facilities for the failure of the Owner of the Lot or its occupants, licensees or invitees to comply with any provision of the Declaration, the Association By-laws, or reasonable rules of the Association.
- c. A fine or suspension may be not be imposed without at least fourteen (14) days prior written notice to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) Members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee. If the committee, by a majority vote does not approve a proposed fine or suspension, it may not be imposed. If the Association imposes a fine or suspension, the Association must provide written notice of such fine or suspension by mail or hand delivery to the Lot Owner and, if applicable, to any tenant, licensee or invitee of the Lot Owner.
- d. If a Member is more than ninety (90) days delinquent in paying a monetary obligation due to the Association, the Association may suspend the rights of the Member or the Members tenants, guests or invitees, to use common areas and facilities until the monetary obligation is paid in full. This subsection does not apply to that portion of common areas used to provide access or utility services to the Lot. Suspension does not impair the right of an Owner or tenant of a Lot to have vehicular and pedestrian ingress to and egress from the Lot, including, but not limited to, the right to park. The notice and hearing requirements under subsection (c) do not apply to a suspension imposed under this subsection.
- e. The Association may suspend the voting rights of a Lot or Member for the non-payment of any monetary obligation due to the Association that is more than ninety (90) days delinquent. A voting interest or consent right allocated to a Lot or Member which has been suspended by the Association may not be counted toward the total number of voting interests for any purpose, including, but not limited to, the number of voting interests necessary to constitute a quorum, the number of voting interests required to conduct an election, or the number of voting interests required to approve an action under the Homeowners Act, Chapter 720, Florida Statutes or pursuant to the governing documents. The notice and hearing requirements under subsection (c) do not apply to a suspension imposed under this subsection. The suspension ends upon payment of all obligations currently due or overdue to the Association.
- f. All suspensions imposed pursuant to subsections d. and e. must be approved at a properly noticed Board meeting. Upon approval, the Association must notify the Lot

Owner and, if applicable, the Lot's occupant, licensee or invitee by mail or hand delivery.

**ARTICLE XI.**  
**CHAPTER 558 NOTICE OF CLAIM**

**ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES.**

**ARTICLE XII.**  
**DISPUTE RESOLUTION PROCEDURES**

A. It is Developer's intent that the Property and other improvements (collectively "Property"), constructed by Developer be of a quality that is consistent with good construction and development practices for similar properties and be free of construction defects. Nevertheless, due to the complex nature of construction and the subjectivity involved in evaluation of such quality, issues may arise as to whether an alleged construction defect exists and Developer's responsibility therefor. It is Developer's intent to attempt to resolve all claims and disputes regarding "Alleged Construction Defects" (as defined below) amicably through personal negotiations with the Claimant(s) (defined below). If such personal negotiations fail for whatever reason, then the Claimant(s) shall be bound to follow the procedures and provisions set forth in Chapter 558 Florida Statutes – Construction Defects, as may be amended from time to time (the "Act") with respect to claims for Alleged Construction Defects against the Developer as well as other Covered Parties. A copy of the Act is attached to this Declaration as Exhibit "C", and the terms and provisions of the Act, including the Notice provision set forth in Article XII above and at Section 558.005(6) of the Act, are fully incorporated into this Declaration. In the event that personal negotiations and adherence to the procedures and provisions set forth in the Act fail to resolve the claims and disputes of the Claimant(s), the Claimant(s) shall be bound to resolve such claims and disputes pursuant to the Mandatory Binding Arbitration provisions set forth in Article XIV B. hereof.

B. Claimant(s) as set forth herein shall mean the Association and/or any Home/Lot Owner or Home/Lot Owners who are (1) original buyers of a Home and Lot purchased from the Developer ("**Original Purchaser**") pursuant to a Contract for Sale and Purchase for Indian River Landings ("**Purchase Agreement**") between such Home/Lot Owner and the Developer, and (2) subsequent buyers who purchased from a third party (not Developer) a Home/Lot that has been constructed on the Property by the Developer and its Contractor ("**Subsequent Purchaser(s)**"), which Claimant(s) claims, contends and/or alleges that all or any portion of the Home/Lot contain construction defects as defined in Section 558.02(5)(a) through (d) of the Act ("**Alleged Construction Defects**").

C. Covered Parties shall mean the Developer, its Contractor and Developer and/or Contractor's subcontractors, suppliers or design professionals alleged to be responsible for Alleged Construction Defects.

D. With respect to Claimant(s)' claims for Alleged Construction Defects brought against the Developer and/or its Contractor, Developer and/or its Contractor shall each be entitled to seek

indemnification, contribution or other forms of damages or relief against the other Covered Parties to the extent that the other Covered Parties' scope of work on the Property are the cause of the Alleged Construction Defects. Developer and its Contractor reserves its rights against the other Covered Parties accordingly, and any resolution of the Claimant(s) claims and disputes through personal negotiations, proceedings under the Act or pursuant to an award through arbitration (hereinafter provided for) shall include a release by the Claimant(s)' of their claims against the applicable Covered Parties and an assignment of those claims at the option of the Developer to the Developer and/or its Contractor. Developer may also, in its discretion, cause the other Covered Parties to participate in any of arbitration proceedings hereinafter provided for.

E. For greater certainty, Claimant(s) defined in Article XIII.B. above and who are referred to in Articles XIII and XIV do not include any Owner whose home was not constructed by the Developer and its Contractor, Claimant(s) only being the Association, Original Purchaser(s) and Subsequent Purchaser(s).

### **ARTICLE XIII.**

#### **DISCLAIMER OF WARRANTIES; HOME BUILDER'S LIMITED WARRANTY; NOTICE TO SUBSEQUENT PURCHASERS; BINDING ARBITRATION; MEDIATION**

A. **Warranty.** Developer and each person or entity who is described as a Claimant(s) under this Declaration acknowledge and agree that if their claims and disputes regarding Alleged Construction Defects are not resolved by personal negotiations or the provisions and procedures set forth in the Act, then such claims and disputes shall be resolved by mandatory arbitration procedures which are set forth in the Developer's Express Ten-Year Home Builder's Limited Warranty (the "**Home Builder's Limited Warranty**" or "**HBLW**") PWC Form No. 117 Rev. 01/07, a copy of which is attached hereto as Exhibit "D", the terms and conditions of which are fully incorporated into this Declaration and which has also been furnished to the Association and has or will also be furnished to each such Original Purchaser at the time of their entering into the Purchase Agreement with Developer. The Developer and each person or entity who qualifies as a Claimant(s) hereunder covenant and agree that they are beneficiaries of and will abide by said warranty program. In accordance with the Home Builder's Limited Warranty, the Claimant(s) also covenant and agree that any and all claims and/or disputes of any kind relating to Alleged Construction Defects in the Property, which includes the Lots and the Homes constructed thereon, if not resolved by personal negotiations or pursuant to the provisions and procedures of the Act and the Purchase Agreement, shall be submitted to final and binding arbitration pursuant to and in accordance with the provisions of the arbitration agreement contained in the Home Builder's Limited Warranty, which arbitration agreement is incorporated herein as though fully set forth. For greater certainty, if any of the above-referenced Claimant(s)' claims or disputes are not resolved by personal negotiations or pursuant to the procedures and provisions of the Act, mandatory arbitration will proceed without the further need of the Claimant(s) to first comply with the notice and other provisions of Section VI of Developer's Home Builder's Limited Warranty.

Original Purchaser(s) as well as Subsequent Purchaser(s) shall be bound by the mandatory arbitration and other provisions of the Home Builder's Limited Warranty, whether or not they execute and process the Subsequent Home Buyer's Acknowledgement and Transfer which is shown

in Exhibit "D".

B. **Arbitration under Home Builder's Limited Warranty.** DEVELOPER, TO THE FULLEST EXTENT PERMITTED BY LAW, MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, WHICH INCLUDES THE RESIDENCE AND IMPROVEMENTS, CONSTRUCTED THEREON BY THE DEVELOPER AND THE COVERED PARTIES, OR WITH RESPECT TO CONSUMER PRODUCTS OR OTHER THINGS THAT MAY BE INSTALLED OR THAT ARE CONTAINED IN OR RELATE TO THE PROPERTY. EACH CLAIMANT(S), BY TAKING TITLE TO A LOT AND HOME CONSTRUCTED THEREON, AND THE ASSOCIATION ACKNOWLEDGE AND AGREE, IF ANY CLAIMS OR DISPUTES AMONG THEM RELATING TO ALLEGED CONSTRUCTION DEFECTS ARE NOT RESOLVED BY PERSONAL NEGOTIATIONS OR THE PROCEDURES AND PROVISIONS OF THE ACT REFERRED TO ABOVE, THAT SUCH CLAIMS AND DISPUTES, WHETHER BASED ON CONTRACT, TORT, STATUTE, OR EQUITY, BE RESOLVED SOLELY AND EXCLUSIVELY THROUGH BINDING ARBITRATION PURSUANT TO THE FEDERAL ARBITRATION ACT (9 U.S.C. § 1, ET SEQ.), AND ADMINISTERED BY AN ARBITRATOR SELECTED BY MUTUAL AGREEMENT OF THE PARTIES OR, IN THE ABSENCE OF SUCH MUTUAL AGREEMENT, AS OTHERWISE DESIGNATED BY PROFESSIONAL WARRANTY SERVICES AS PROVIDED IN THE HBLW IN ACCORDANCE WITH THE RULES AND PROCEDURES SET FORTH IN THE HBLW AND WHERE NOT INCONSISTENT BY THE RULES AND PROCEDURES OF THE ARBITRATOR. IN AGREEING TO SUBMIT SUCH DISPUTES TO BINDING ARBITRATION, THE CLAIMANT(S) ARE VOLUNTARILY, KNOWINGLY AND INTELLIGENTLY WAIVING AND GIVING UP ANY RIGHTS THEY MAY POSSESS TO LITIGATE SUCH DISPUTES IN A COURT OR BY JURY TRIAL.

C. **Mediation.** Notwithstanding any provision to the contrary in Articles XII, XIII or this Article XIV, prior to submitting claims and disputes to mandatory arbitration, the Developer and Claimant(s) may mutually agree to submit the claims and disputes of the Claimant(s) to nonbinding mediation before a mutually selected single mediator at a location mutually determined.

#### **ARTICLE XIV.** **COMMON AREA DOCKS**

A. A common area dock may be located on Tract E and Tract F as shown on the plat of Indian River Landings. Common docks shall be owned by the Association and shall be designated by the Association for temporary day use on a first come and first serve basis only by Owners, tenants and their guests. The Association shall have the right, but not the obligation, to remove any vessel that does not comply with the Declaration or the Rules and Regulations.

Fueling of vessels in the common area docks is prohibited.

No maintenance of vessels including pumping of waster, the cleaning of hulls or salvage shall be permitted.

Each Owner covenants and agrees to indemnify, defend and hold harmless the Association from any and all claims or demands of whatever nature arising from the violation of the

Rules and Regulations by any Owner, their tenants, guests or invitees, including reasonable attorney fees and costs, including but not limited to, mediation, arbitration, litigation, appeals, administrative proceedings or bankruptcy.

**ARTICLE XV.**  
**ARCHITECTURAL REVIEW AND CONSTRUCTION REQUIREMENTS**

To ensure that the homes and accessory buildings within the neighborhood are harmonious, Declarant will create an Architectural Review Committee hereinafter defined to approve all construction. Although certain requirements are specified herein the Architectural Review Committee will not be limited to the specific requirements but rather will have broad discretion. The overall plan is the Indian River Landings will be a community of "Old Florida" style houses, with front porches and rear loaded garages.

**SECTION 1. Architectural Review Committee.** The Architectural Review Committee will consist of a single person or a committee of persons selected by Declarant. Declarant may temporarily delegate this right to appoint members or may assign this right by written instrument recorded in the Public Records. Members of the Architectural Review Committee will serve at the pleasure of the entity entitled to select the members and may be replaced at any time. If Declarant (or assignee) fails to appoint at least one person to the Architectural Review Committee and the vacancy continues for 30 days after the Association gives written notice to Declarant (or assignee) of the vacancy, the Association will have the right to appoint the members of the Architectural Review Committee until such time as Declarant (or assigned) exercised its right of appointment.

The Architectural Review Committee may employ one or more architects or land planners to advise the Architectural Review Committee. Each such advisor may sit on the Architectural Review Committee as either a voting or nonvoting member, at the discretion of the other members of the Architectural Review Committee. At the discretion of the Architectural Review Committee, the advisor may be paid a reasonable fee derived from application fees, or payable by the Association from the General Assessment.

**SECTION 2. Architectural Review Procedure.**

a. All construction, improvements, remodeling or modification on or to a Lot, except interior alterations not affecting the external appearance of the house on the Lot or improvements on a Lot, must be approved in advance by the Architectural Review Committee. This specifically includes, but is not limited to, painting or other alteration of a building (including doors, windows, and trim); replacement of roof or other parts of a building other than with duplicates of the original material; installation of satellite dishes or receivers approved by the Board of Directors, solar panels, or other devices; construction of privacy walls or other fences or gates; addition of awnings, flower boxes, shelves, statues or other outdoor ornamentation; addition of window coverings; and initial landscaping and any material alteration of landscaping. This right is general and is not limited to the specific items listed in this paragraph or in Paragraph 3.4. Construction effected by or on behalf of Declarant will not be subject to approval by the Architectural Review Committee.

b. The plans to be submitted for approval shall include (i) the construction plans and specifications, including all proposed clearing and landscaping; (ii) elevations of all proposed improvements; (iii) a lot survey showing current improvements, (iv) a construction schedule; and (v) an other items as the Architectural Review Committee requires. No construction on any Lot shall be commenced and no Lot shall be modified except in accordance with the submitted plans. Any modification to the approved plans must be also reviewed and approved by the Architectural Review Committee.

c. The Architectural Review Committee, in making its decisions, may consider purely aesthetic matters that in the sole opinion of the Architectural Review Committee will not be limited to the specific restrictions and requirements of this Article in making its decisions.

d. The Architectural Review Committee must notify an applicant in writing of its decisions within 30 days of receiving a completed application. If approval or disapproval is not given within 30 days after submission of a completed application, the application will be deemed approved unless the applicant agrees to an extension.

e. If any construction or modification is undertaken that has not been approved or that deviates substantially from the approved plans, Declarant or the party delegated or assigned Declarant's right to appoint the Architectural Review Committee may bring an action for specific performance, declaratory decree, or injunction, and will be entitled to recover all costs of the action including attorneys' fees at trial or on appeal. Any action shall also determine entitlement to any retained security deposit. When Declarant (and its affiliates) no longer owns any Lots within Indian River Landings, each Owner will have the right to enforce these provisions. The failure to strictly enforce these provisions as to a particular violation or violations will not be deemed a waiver to enforce these provisions as to future or continuing violations.

f. The Architectural Review Committee and Declarant will not be liable to the applicant or to any other party for inadequacy or deficiency in the plans resulting in defects in the improvements, and will not be obligated to ensure either that the proposed plans comply with any applicable building codes or that construction was done in accordance with the plans.

g. Specific Restrictions. The following restrictions shall apply to the Lots; however, the Architectural Review Committee will not be limited to these items when reviewing plans and will have broad discretion in the interpretation of these restrictions.

1. Driveways. All driveways to Lots must have a driveway of stable construction extending from the adjacent street to the garage as approved by the Architectural Review Committee.

2. Exterior Color and Materials. The color and materials of all exterior surfaces will be subject to approval of the Architectural Review Committee. The Architectural Review Committee may promulgate a list of approved colors and materials for this purpose. This restriction includes window tints and films.

3. No structure, planting, or other material may be placed or permitted to remain on a Lot if it may damage or interfere with the installation and maintenance of any entry-way, hedge, planting, tree, grass, fence, or other improvement or landscaping located within the Common Property. Except as otherwise provided for herein, any easement area located on a Lot and all improvements on an easement area shall be maintained by the Owner of the Lot on which the easement area lies, except for those easement areas the maintenance of which is the responsibility of a public authority, a public utility, or the Association. In any event, an Owner may not interfere with the maintenance of an easement area on the Owner's Lot by the party responsible for maintaining the easement area. This provision may be enforced by any person or party benefitting from the easements, or responsible for the maintenance of them.

4. Utility Connections, Connections for all utilities, including, but not limited to, water, sewage, electricity, telephone, and television, must be run underground from the connecting point of the utility to the dwelling in such a manner as is acceptable to the respective utility authority or company and the Architectural Review Committee.

5. The improvement of a Lot and the construction repair, or remodeling of any improvement must be diligently and continuously pursued once begun and, in any event, promptly completed and within the construction schedule approved by the Architectural Review Committee. The Architectural Review Committee may, as a condition of approval, impose a deadline to complete construction. In addition to any other remedies, the Architectural Review Committee may impose a fine for each day of violation for work that is not diligently pursued, continued and completed.

6. Notwithstanding anything in this Declaration to the contrary, Declarant and parties approved by Declarant may construct and maintain sales offices, sales trailers, maintenance sheds, pole barns, and model homes, together with a sign or signs relating thereto, on a Lot or Lots or on any other property within Indian River Landings until such time as all of the Lots are sold.

7. All fencing must be approved by the Association as set forth in Article VI, Section 1c page 17 of this Declaration.

**WITNESS WHEREOF**, the undersigned, being the Developer herein, has hereunto set its hand and seal the \_\_\_ day of \_\_\_\_\_, 2017.

Signed, Sealed and Delivered  
In the Presence of:

RIVER EDGE DEVELOPMENT LLC, a Florida  
limited liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_

BY: \_\_\_\_\_  
Print Name: Kohn Bennett  
Title: President

\_\_\_\_\_  
Print Name: \_\_\_\_\_



STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by **KOHN BENNETT, PRESIDENT of RIVER EDGE DEVELOPMENT LLC, a Florida limited liability company**, on behalf of the company, who is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires: